

Information Item

Governmental Relations Committee

Federal Update, December 2000

This item provides a brief update on some of the major issues affecting education occurring at the national level. Since this report was prepared in early November, Commission staff will provide an oral update on events occurring since the writing of this report at the Commission's December 11 meeting.

In addition, at its October 16 meeting, the Commission had expressed interest in receiving additional information concerning the Pell Grant tuition sensitivity provision in Federal law and its impact on California Community College students. The last section of this agenda item provides information relating to this issue and is provided in response to the Commission's request.

Presenter: Karl M. Engelbach.



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Purpose and content of this item

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Congress adjourns until November 14, without finalizing education appropriations for FY 2001

On November 3, Congress adjourned after passing a two-week continuing resolution to keep the federal government operating. Congress returned after the election, on November 14, to finish the remaining FY 2001 appropriation spending bills. This includes appropriations for Labor, Health and Human Services (HHS), and Education programs.

Since early October, Congress has passed a series of continuing resolutions to keep the government running until the Administration and Congressional leaders could agree to final budget figures. During the week of October 30, following intense bargaining, what appeared to be a final bipartisan agreement on the education budget was reached, with a record \$43 billion slated for Department of Education administered programs – a 20 percent increase from FY 2000. This included funding of \$1.75 billion for the Federal class size reduction program; \$1 billion for school renovation programs; \$1 billion for after-school programs; \$585 million for the Eisenhower professional development state grants (a \$250 million or 75 percent increase over the current year funding of \$335 million); increased funds for students with disabilities; and more funding for Pell Grants, GEAR UP, and Title I accountability. In terms of the maximum Pell Grant award, the most recent version of FY 2001 Labor, HHS, and Education appropriations bill included a \$3,800 maximum Pell award amount, a \$500 increase above the current \$3,300 maximum award level.

However, Republican leaders withdrew support for this bipartisan plan at the last minute, largely because of a provision on the bill related to repetitive-motion injuries in the workplace. When the bipartisan agreement dissolved, the U.S. Department of Education issued a press release indicating that Congress' failure to pass an education appropriations bill will mean that California has at risk at least \$715 million in increased federal education funding that would have supported California students had the

education appropriations bill been passed. (A copy of the Department's press release appears as an attachment to this item.) There is concern in the education community that the record increases negotiated before the election may be lost when Congress returns to consider the spending bill.

**President signs law
increasing number
of H-1B visas
issued to foreign
workers**

President Clinton signed into law legislation that will allow the Immigration and Naturalization Service (INS) to issue up to 195,000 six-year temporary visas annually for three years to skilled foreign workers. The nearly 600,000 workers which will now be permitted in the U.S over the next three years is about 350,000 more than would have been allowed under previous legislation.

H-1B visas are three-year work permits for foreign workers with college degrees and are renewable. Colleges and universities use H-1B visas to employ foreign faculty and researchers. Currently, about 5 percent of the available H-1B visas are issued to individuals working at institutions of higher education.

The number of H-1B visas allowed in the country has been capped on an annual basis. More recently, the demand for high-tech workers in the nation has resulted in the limit, or cap, being reached early in the calendar year. This phenomenon has put higher education institutions at a disadvantage in hiring foreign faculty and researchers. Further, the new annual supply of visas does not become available until October of each year, and most higher education institutions do faculty hiring in the spring or early summer. Due to these concerns, the higher education community in April of this year requested that 10,000 H-1B visas be reserved strictly for use by higher education institutions. Most important for the higher education community is that the recently enacted legislation exempts higher education institutions completely from the capped number of H-1B visas.

The new law also doubles the fees for individuals working under these visas from \$500 to \$1,000. The increased fees will be used by the federal Department of Labor for training programs (55 percent) and for low-income college scholarships administered by National Sciences Foundation (NSF) (22 percent). The remaining funds will be used to support competitive grants administered by NSF to support public-private partnerships that strengthen K-12 science, math, and technology education.

The lack of skilled trained workers and the increase in the number of H-1B visas has been a major concern for a number of high tech industries this past year. The need for more foreign workers and increased H-1B visa legislation is also mentioned in discussions on the current state of science, mathematics, engineering, and technology (SMET) education. Many believe raising the number of H-1B visas continually is a short-term fix to the worker shortage; instead, they desire Congress to implement a long-term solution that would focus on serious reform of SMET education at the K-12 level. This issue will likely surface again next year in the 107th Congress.

In addition, H.R. 3767 -- an Act that would amend various provisions of the Immigration and Nationality Act -- contains language that will alter regulations issued by the INS last December 1999. Those regulations require colleges to collect a fee from students registered in the INS database and to remit those fees to the federal government. The higher education community strongly opposed this requirement. This legislation will move responsibility for fee collection from the higher education institutions to the Attorney General. Higher education institutions will remain involved with the INS in tracking foreign students and exchange visitors and relaying to the INS any change in their visitors status.

**Final
appropriations for
NSF and NASA
now law**

Although no agreement was reached on the Labor/HHS/Education appropriations bill, the President did sign the Veterans Administration/Housing and Urban Development appropriations bill into law on October 27. That bill contains funding for the National Science Foundation (NSF) and National Aeronautics and Space Administration (NASA).

NSF received a 13.6 percent budget increase, an amount NSF Director Rita Colwell called "the largest dollar increase the Foundation has ever received in real or constant dollars." The new budget for FY 2001 is \$4.426 billion, an increase of \$529 million from last year.

The Education and Human Resources Division of NSF received an increase of 13.9 percent, providing it a budget of \$787.4 million, an increase of \$96 million from last year. Originally NSF had sought a 5 percent increase for this division.

Colwell also said the increase in the NSF budget puts the agency "on the path towards doubling the NSF budget in five years," a goal with bipartisan support, and endorsed by a number of science and engineering organizations.

NASA received a 5 percent increase in its overall budget in comparison to FY 2000 and 1.8 percent more than what the President requested for the agency.

**The National
Science Education
Act fails U.S.
House vote**

On Tuesday, October 24, HR 4271, the National Science Education Act (NSEA) was defeated in the House of Representatives. Among other provisions, the NSEA would have established a new National Science Foundation Grant Program enabling K-8 schools to hire science and mathematics master teachers. It would have also brought additional resources into science classrooms and would have provided teachers with professional development opportunities in using technology in the classroom. Because HR 4271 was on a suspension vote, the bill was considered under suspension of the rules. Only 40 minutes was allowed for debate, no amendments were permitted, and two-thirds of majority vote were required for passage of the bill.

During floor debate, several members who had originally supported the bill contested language as unconstitutional. The language in question would have allowed the NSF to make grants to a private elementary or middle school under the Master Teacher Grant Program. Supporters argued that the language was not unconstitutional, since a number of NSF grant programs, including the Presidential awards, are open to private schools. It appears this legislation will not be enacted this year.

**Glenn Commission
report on science
and mathematics
teaching**

Former Senator John Glenn released the final report of the National Commission on Mathematics and Science Teaching for the 21st Century. The 48-page report, titled "Before It's Too Late," was presented at the Smithsonian Air and Space Museum on September 27, 2000. It provides a comprehensive plan that details a number of ways to improve the quality of science and mathematics teaching nationwide.

A panel of chief executives, members of Congress, and educators who comprised what is known as the Glenn Commission met five times this year. They heard from experts in the field about the best ways to address the challenges facing science and mathematics education.

The recommendations are based on three goals:

1. Establish an ongoing system to improve the quality of mathematics and science teaching in grades K-12.
2. Increase significantly the number of mathematics and science teachers and improve the quality of their preparation.
3. Improve the working environment and make the teaching profession more attractive for K-12 mathematics and science teachers.

The Glen Commission estimates the action strategies for achieving the three goals will cost more than \$5 billion annually.

"We as a nation must take immediate action to improve the quality of math and science teaching in every classroom in the country. If we delay, we put at risk our continued economic growth and future scientific discovery," said Senator Glenn. "Here we outline a workable, balanced strategy that builds on what has been learned in the last decade, improves teaching, and thereby improves student achievement."

The full text of "Before It's Too Late: The Report to the Nation from The National Commission on Mathematics and Science Teaching for the 21st Century" can be downloaded from www.ed.gov/americaaccounts/glenn.

**Crime statistics
now online**

Ten years after Congress mandated that all colleges and universities compile reports of campus crimes each year, the Department of Education has published crime statistics for over 6,000 institutions on its website. The deadline for institutions to report its data had been extended to October 24, and those institutions that did not post their information can be fined

\$25,000 for each unreported crime. The Department hopes students, parents and employees use the site. The website can be found at <http://www.ope.ed.gov/security>.

The College Board recently released two studies on college pricing and student aid. Although the University of California and the California State University (among others in the country) have frozen tuition increases this year, overall college tuition and fees in 2000-01 have increases ranging from 4.4 percent to 5.2 percent at four-year institutions, and ranging from 3.4 to 7.0 percent in two-year institutions. The report also stated that a record \$68 billion was available last year in student financial aid, a 6.3 percent increase from the previous year.

According to the report, the average cost of tuition and fees at public four-year colleges was \$3,510, an increase of 4.4 percent since last year. At the same time average tuition at private four-year institutions was \$16,332, 5.2 percent higher than the year before. The rate of growth was higher than the rate of inflation, which was recorded as 3.4 percent during the past year. The cost of room and board also grew faster than inflation, increasing 5.1 percent at four-year public colleges and 4.2 percent at private schools over the past year.

Higher education officials attribute the rising costs of tuition to the growing need for technology and to budget cuts. In addition, financial aid per full-time student has risen 79 percent in the last 20 years. Loans currently comprise 59 percent of all aid, up from 41 percent in 1980. More information about the report from the College Board can be found at: <http://www.collegeboard.com/press/cost00/html/001016.html>.

Teaching assistants permitted to unionize

A new ruling by the National Labor Relations Board allows students who work as teaching assistants at private universities to unionize in order to negotiate salary, benefits and work conditions. The decision stems from a case involving graduate student assistants at New York University. While the decision now opens up the possibilities of unions at private institutions, students at many public institutions, including those in Wisconsin, Michigan, California, and New York, have already begun unions. Opponents of the ruling worry that the quality of education will be lowered if teaching assistants have the right to collective bargaining.

FERPA prevents students from being informed of college acceptance

In order to attract more minority students to its colleges and universities, several states adopted policies that automatically accept top high school students. Many institutions, however, are having a difficult time notifying the qualified students as a result of the Federal Educational Rights and Privacy Act (FERPA). The laws prohibit student records from being released without the permission of the student or his/her parents. As a result, states such as Texas and California have failed to notify qualified students.

In Texas, officials have had to rely on buying data from the College Board or visits from local high schools to get lists of high school students. In addition, they also send a letter to each qualifying student informing them of their acceptance to college. Officials in the state say that too many students are not getting the information they need and are hoping to have the U.S. Department of Education reinterpret FERPA. In California, high schools ask for permission from parents before they send out class-rank data. The additional paperwork, however, has been cited as the reason that only 84 percent of the state's high schools did so this past year.

**Student loan
default rate down**

According to Clinton administration officials, student loan default rates have dropped to 6.9 percent for FY 1998, down from a high of 22 percent in 1992. The lower default rate is being attributed to the good economy and increased enforcement. More than 1,300 schools have been removed from the federal student loan program for failing to comply with federal financial aid rules or if their default rate was over 25 percent for three years. In 1998 the program distributed \$35.7 billion in loans to 8.6 million students. More information can be found at:
<http://www.ed.gov/PressReleases/10-2000/100200.html> .

The California Student Aid Commission (CSAC)/EdFUND loan cohort default rates have also declined dramatically this year, from 10.3 percent to 7.3 percent. The rate is now just one-half a percent higher than the national average. Over the past five years, from the 1994 cohort through the 1998 cohort, CSAC/EdFUND's rate has been cut to less than half, from 15.7 percent to 7.3 percent. This 8.4 percentage point drop represents the steepest decline in the nation over the last five years.

**Americans
receiving more
schooling**

According to new findings by the Census Bureau, the educational attainment of Americans 25 and older has increased steadily in recent years. In March 1999, 83.4 percent of Americans over the age of 25 had a high school degree, an increase from 77.6 percent in 1990 and 24.5 percent in 1940. Calculated by race, 84.3 percent of whites had a high school diploma, as did 77 percent of blacks and 56.1 percent of Hispanics. At the same time, 25.2 percent of those in the same age group had attained a bachelor's degree, up from 21.3 percent in 1989. As for the various ethnic groups, 25.9 percent of whites had attained a bachelor's degree, compared with 15.4 percent of blacks and 10.9 percent of Hispanics. The full report can be viewed at:
<http://www.census.gov/population/www/socdemo/educ-attn.html> .

**Supreme Court
weighs ADA
applicability to
state colleges and
universities**

In the second week of its new term, the U.S. Supreme Court took up what has become a familiar issue--namely, the extent to which states are shielded from liability under federal law. The high court heard arguments in two lawsuits from Alabama, both involving the Americans with Disabilities Act (ADA).

The plaintiffs in the lawsuits, a nurse at the University of Alabama Hospital and a state corrections officer, charge that the State of Alabama discriminated against them because of their health conditions (cancer and asthma), thus violating the ADA. Lawyers for the state contend that the terms of the ADA violate the 11th Amendment to the U.S. Constitution, which offers states broad protections from federal lawsuits. The court will render a decision on the Alabama case in 2001.

The Supreme Court took up a similar case in its last term, one that involved a group of employees in Florida's university system suing the state for discrimination under the federal Age Discrimination and Employment Act (ADEA). The court ruled 5 to 4 in favor of the state in that case, stating that Congress had exceeded its constitutional authority in creating the ADEA.

Electronic signatures

The Electronic Signatures in Global and National Commerce Act (ESIGN) that the President signed on June 30, 2000 went into effect on October 1, 2000.

ESIGN legislation provides that a signature, contract and/or record related to any transaction in or affecting interstate or foreign commerce may not be denied legal effect, validity, or enforceability solely because it is in electronic form.

Although the legislation was effective October 1, 2000, additional effective dates are provided if the following information is applicable:

- ◆ If record retention is required by the Government Paperwork Elimination Act (GPEA), the effective date is March 1, 2001. If regulation amendments are required to enact ESIGN, the effective date is June 1, 2001.

The U.S. Department of Education is expected to define the digital signature process and requirements within 60 days, after which they expect to pilot electronic signatures with various partners and schools.

Direct loan program repayment incentive

The Department of Education recently introduced rebates as an incentive for the Direct Loan Consolidation Program. The government will cut the interest rate on new consolidation loans by 0.8 percent. Students must pay on time for the first 12-month repayment period or they will revert to the maximum interest rate level. The Department defines a late payment as one that is more than six days late, which is half of the industry standard of 12 days. The Department is predicting that only 23 percent of the borrowers will make it through the year without a late payment.

**The federal Pell
Grant tuition
sensitivity provision
results in less
student aid for
California's
community college
students**

Over 100,000 students at California Community Colleges may soon become the only students in the nation denied the full Pell Grant award solely because of California's uniquely low \$11-per-unit enrollment fee. Although the maximum Pell Grant covers less than one-third of the cost of education for the lowest income community college students and is the only federal aid most of these students receive, these students will receive only a portion of the \$500 increase in the maximum Pell grant award unless the tuition-sensitivity threshold in the Higher Education Act (HEA) is raised.

The over 100,000 community college students in California whose persistence and educational success depends on the Federal Pell Grant assistance may soon be denied the full Pell Grant award because of a "tuition-sensitivity" threshold contained in current Federal law. The Higher Education Amendments of 1998 provided that all students can be eligible, based on financial need, for a maximum Pell Grant of \$2,700, but a portion of any amount above that threshold is limited to the amount of tuition and fees charged by the institution. Eligible community college students in California currently receive the full maximum Pell Grant, which is \$3,300 this year. The recent budget discussion would have provided a \$500 increase in the maximum Pell Grant, which would bring the maximum award to \$3,800 for the 2001-02 academic year. However, California's community college students, because of the \$2,700 "tuition sensitivity" threshold, would only receive a portion of the increase, while students in every other state would receive the full \$500.

The California Community Colleges serve more than 2.2 million students each year and have the lowest enrollment fees in the country at \$11 per credit unit. The colleges accommodate many financially needy students by providing a State-funded fee-waiver program for these students. In addition to this State support, the lowest income community college students rely on federal financial assistance, particularly the Federal Pell Grant program, to help pay for books and supplies, transportation to classes, child care costs, room and board charges, and other non-tuition expenses.

Those most affected by this Pell Grant tuition sensitivity provision are students whose financial circumstances result in a "zero expected family contribution;" that is, according to a calculation using federal needs analysis methodology they have no family resources available for education expenses. For a single student, this typically means an annual income of less than \$5,000; for a single parent with two children, less than \$18,000; for a two-parent two-child family with one in college, less than \$22,000. In order for these students to enroll full time, persist from term to term, and successfully complete a degree or certificate program, they require more financial aid to help pay for books, supplies, transportation to and from classes, child care, and room and board expenses. California has effectively removed tuition as a barrier to access for these students, but unmet financial need remains a barrier to their success.

The Pell Grant covers less than one-third of the cost of education for the typical Pell Grant recipient who has no parental support and is attending a California Community College. It covers only 57 percent of costs for a younger student living at home with one or more parents. These low-income students need additional Pell Grant funds and should not be negatively impacted by a federal policy that focuses on an institution's tuition and fees.

To remedy this situation and enable California's community college students to not be negatively impacted would require raising the Pell Grant tuition sensitivity threshold. At this point in time, it is unlikely that such a change could be made until the next congressional year. Commission staff will work collaboratively with staff in the Chancellor's Office of the California Community Colleges to advocate for an increase in the Pell Grant tuition sensitivity threshold.

Attachment



FOR RELEASE
November 3, 2000

Contact: Alexander Wohl
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**AT LEAST \$714.8 MILLION INCREASE IN EDUCATION FUNDS
TO CALIFORNIA AT RISK AS BIPARTISAN BUDGET
AGREEMENT COLLAPSES AND CONGRESS DECIDES TO GO HOME**

The decision by the Congress to end work on the federal budget for FY2001 and go home until after the election leaves a significant increase in education funding nationally in jeopardy, including an increase of at least \$714.8 million for California, according to an analysis conducted by the Department of Education.

"It is a shame that at the very last moment the congressional leadership put at risk this bipartisan budget agreement," said U.S. Secretary of Education Richard W. Riley. "To pass it would have been the right thing to do for children in California."

Congressional negotiators reached agreement on the budget early Monday morning, including substantial new investments in education such as funding to reduce class size, provide emergency repairs for run down schools, increase after-school opportunities, improve teacher quality, help turn around low-performing schools, help children with disabilities, and increase access to and funding for college and help families pay for college. At the very last minute, the agreement, negotiated on a bipartisan basis, was scuttled by the majority congressional leadership. As a result, California funding *increases* in education are jeopardized in a number of areas, including:

Reducing Class Size (Third installment in the bipartisan commitment to help school districts hire and train 100,000 new teachers over seven years to reduce class sizes in early grades to 18 students per class.): \$48,685,150

Upgrade Teacher Skills and Quality [Eisenhower Professional Development State Grants] (Helps teachers improve their skills in core academic subjects and reduce the number of uncertified and out-of-field teachers.): \$29,569,530

Improve Reading and Math (Title I Grants to local education agencies which help disadvantaged students learn the basics and achieve to high standards.): \$117,834,338

School Renovation Grants (Provides support for emergency repairs, such as repair of roofs, plumbing and electrical systems, meeting fire and safety codes; a portion of the funds will also go to technology and special education activities.): \$149,804,391

21st Century After-School Programs* (Offers families a safe place for their children to learn during after-school and summertime hours.): \$70,958,911

Turn Around Low-Performing Schools (Enhance accountability by accelerating state and local efforts to improve the lowest performing Title I schools, ranging from intensive teacher training to required implementation of proven reforms to school takeovers.): \$15,756,682

Comprehensive School Reform (Helps schools develop or adapt and implement, comprehensive school reform models that are based on reliable research and effective practices.): \$5,549,596

Special Education Grants to States (Assists states in providing a free appropriate public education to more than 6.3 million children with disabilities nationally.): \$170,430,151

Supplemental Educational Opportunity Grants (Provides grant assistance to low-income undergraduate students.): \$7,364,549

Federal Work-Study (Helps undergraduate and graduate students pay for college through part-time work assistance.): \$8,306,249

Pell Grants for College (Provides grant assistance to low-income undergraduate students.): \$161,500,000

In addition, under the Gear Up program, 35 grants are operating in California to create links between middle schools and postsecondary institutions and prepare at-risk youth for college. Bipartisan negotiators reached an agreement to increase funding by \$125 million to \$325 million for Gear Up. These resources are needed to allow the \$26,884,190 in grants now operating in California to continue and to allow for 12 new State awards and 140 new Partnership awards around the nation.

To strengthen future teachers' ability to use technology in their classrooms, the Preparing Tomorrows Teachers to Use Technology program has committed \$7,751,118 in grants operating in California. The agreement would have increased funding for the program nationally from \$75 million to \$125 million to continue the current grants and to fund 90 additional grants around the nation to serve 89,000 more teachers.

Congress is preparing to leave and planning to return to work in a special session beginning Nov. 14. At that time, Congress will take up the education budget and seek to reach a final agreement.

“I hope that when Congress returns to work after the election,” said Riley, “it will move forward with this budget and go one step further to pass school modernization legislation. That bipartisan bill now has the support of 231 members of Congress, a clear majority of the House, and it would help California pay for the construction and modernization of needed classrooms.”

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Note to editors: These numbers are estimates of what California would get in the bipartisan agreement for FY2001 compared to what they would get under the continuing resolution.

* The 21st Century After-School Program functions as a competition. Projections for the increase that is at risk are based on the assumption that each state would receive the same proportion of the new funds as were received under previous competitions.
